

INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATE AFFIDAVIT

APPLICATION FOR TWO (2) YEAR EXEMPTION

FEE \$125

EXHIBIT NO. 4DATE 3-11-09BILL NO. HB 204

State of _____

County of _____

: SS

____ Renewal Application

I, JOHN DOE, being first duly sworn, state:
(applicant's name)

1. I am making these statements and representations in order to apply for an independent contractor exemption certificate with the Montana Department of Labor and Industry (Department). I understand the Department is relying on the truth and accuracy of these statements when approving my independent contractor exemption certificate.

2. My business structure is: _____ Sole Proprietor xx Partnership or LLP _____ Member of a Member-Managed LLC

My name is: DOE JOHN _____
(Last) (First) (Middle)

My mailing address is: PO BOX 5559 HELENA MT 59604
(Street or PO Box) (City) (State) (Zip)

I do business as (DBA) JOHN DOE CONSTRUCTION
(Name of business)

My DBA physical address is: 3850 PIONEER PARK DRIVE HELENA MT 59602
(Street or directions to physical address) (City) (State) (Zip)

My telephone number is: (406) 227-3333 My social security number is: _____ 0101
You are required to notify the Department if any of the above information changes after the certificate is granted.

3. I have an independently established trade, occupation, profession or business. My occupation(s) for which I am applying is/are: GENERAL CONTRACTOR, XXXXX LANDSCAPER XXXX CABINET MAKER

I am providing documentation to the Department that demonstrates I have an established business for each occupation listed above. (See Instructions on back)

4. When acting as an independent contractor I must be free from control or direction over the performance of my services and the details of my work, both under contract and in fact. The hiring agent only offers direction and exercises control in matters essential to specifying the end result.

5. I understand and agree that if my Independent Contractor Exemption Certificate is granted, I waive all rights and benefits under the Workers' Compensation Act of Montana (Act). I understand I am precluded from obtaining benefits under the Act from the hiring agent related to my work performance as an independent contractor. I understand and agree that I am responsible for all taxes related to my work as an independent contractor. I understand as an independent contractor I will not be afforded protections under the Wage Payment Act, the Human Rights Act, the provisions of the Unemployment Insurance Laws, or the Workers' Compensation Act.

6. I also understand that if granted, the Independent Contractor Exemption Certificate will remain in effect for **TWO years** for the occupations listed on the certificate, unless I notify the Department in writing that I want to have the exemption cancelled, or the Department revokes or suspends the Independent Contractor Exemption Certificate. I understand that if I want to maintain my independent contractor exemption, I will have to re-qualify every two years.

Notice to Hiring Agents: You can be found to be an employer if you have the right to control or exercise control over the worker. A person who violates a provision of the law is subject to a fine to be assessed by the Department of up to \$1,000 for each violation.

By signing this affidavit and the associated waiver form, I understand and agree that if my Independent Contractor Exemption Certificate is granted I **WAIVE ALL RIGHTS AND BENEFITS THAT I HAVE UNDER MONTANA'S WORKERS COMPENSATION ACT**. I further declare that I am 18 years old or older, and that all of the information I have supplied in and with this Affidavit is true.

By: _____
Applicant Signature

SUBSCRIBED AND SWORN before me this _____ day of _____, 20____.

(Notarial seal)

Notary Public
Residing at _____

My commission expires _____

****Notaries Please Note****

Please put applicant under oath before executing this affidavit. This is a sworn statement.

Complete this form only if you are a sole proprietor, a working member of a partnership or a limited liability partnership (If claiming to be a partnership, you must provide a signed partnership agreement), or a member of a member-managed limited liability company and do not want workers' compensation on yourself. Independent contractor exemption certificates are issued individually. Each person requesting an exemption completes his or her own form.

If you have any questions about completing this affidavit or the waiver, or determining if you are an independent contractor, please call the Independent Contractor Central Unit in Helena at (406) 444-9029. You may visit our website at www.mtcontractor.com

Notice to Applicants: Montana law provides for a civil penalty of up to \$1,000 for each violation of the following: A person may not perform work as an independent contractor without obtaining either workers' compensation insurance or an Independent Contractor Exemption Certificate; perform work as an independent contractor when the Department has revoked or denied the Independent Contractor's Exemption Certificate; transfer to another person or allow another person to use an Independent Contractor Exemption Certificate that was not issued to that person; alter or falsify an Independent Contractor Exemption Certificate; and/or misrepresent the person's status as an independent contractor. The Department has the authority to investigate your working relationships as an independent contractor. If through investigation, the Department determines you are acting as an employee, this exemption may be suspended or revoked.

Notice to Employers: Montana law prohibits employers from avoiding their responsibility to provide workers' compensation insurance for employees. An employer may not require an employee through coercion, misrepresentation, or fraudulent means to adopt independent contractor status or exert control to a degree that destroys the independent contractor relationship. In addition to any other penalty or sanction, a person or employer who violates a provision of the law is subject to a fine to be assessed by the Department of up to \$1,000 for each violation.

INSTRUCTIONS

1. Read the entire affidavit and the entire accompanying waiver before signing. NOTE: The waiver is a legal document that when signed waives statutory workers' compensation benefits.
2. If you understand all of the statements on both forms and believe you qualify as an independent contractor, complete the affidavit and the waiver in the manner identified below.
3. In paragraph 2 of the affidavit, provide the following information:
 - my business structure is (mark the appropriate blank with a check or X)
 - my name is (include your full individual name)
 - my mailing address is (include the number, street, box, city, state and zip code)
 - I Do Business As (DBA) (business name)
 - DBA physical address (include the number, street, directions, city, state and zip code)
 - telephone number
 - social security number
4. In paragraph 3 of the affidavit, you must list trades, occupations, professions, or businesses for which you are claiming an independent contractor exemption certificate.
5. Individuals who submit documentation for each trade, occupation, profession, or business that totals 15 points will receive an Independent Contractor Exemption Certificate. A maximum of two items may be submitted for consideration in each category. The Department may award points for items submitted up to the total points in each category. Items provided for certification may receive up to the following point value:

WC, UI, Revenue accounts for employees (all three)	10 pts	List of equipment & tools with approximate value	6 pts
Memo of Understanding or Contract evidencing independent contractor status	6 pts	Liability insurance policy	6 pts
Business location, lease or rental agreement	6 pts	Bonding	6 pts
Trucking company lease agreement	6 pts	Business Tax form or records Sched C, E, F, or K	6 pts
Valid, current Partnership Agreement	3 pts	Form 1099's / business tax receipt	3 pts
Professional License	3 pts	Application or business license permit	3 pts
Registered name of business with SOS	3 pts	Business structure registered with the SOS	3 pts
Internet, on a professional list, or affiliation	3 pts	Education certification	3 pts
Fed Employer Identification Number FEIN	1.5 pts	Advertises services in a newspaper, phone book	3 pts
Business bank account	1.5 pts	Two or more bids or estimates	1.5 pts
Credit card - charge account in business name	1.5 pts	Telephone bill in business name	1.5 pts
Advertises using sign on vehicle, in yard, bulletin boards, corner lamp post, flyers	1.5 pts	Printed invoices, cards, brochures, hats, shirts	1.5 pts
		Standard billing invoices	1.5 pts
7. Sign at the bottom of the affidavit and have your signature notarized. In addition to confirming your identity, the notary must require you to verbally swear to the truth of the information supplied in and with your affidavit. If you agree to waive your rights as detailed in the waiver, sign the waiver and have your signature notarized.
8. Both the waiver and affidavit must be completed or your application will be denied.
9. Pay special attention to the civil penalty for misrepresentations made concerning a person's status as an independent contractor.
10. Make checks payable to Montana Department of Labor & Industry in the amount of \$125.
11. Mail the completed waiver, affidavit, attached documentation, and \$125 fee to:

Montana Department of Labor and Industry
Employment Relations Division
Independent Contractor Central Unit
P.O. Box 8011
Helena, MT 59604-8011